



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

OFFICIAL VALUATIONS OF PRIVATE PROPERTY

FREDERICK W. WHITRIDGE

Some years ago a very rich man who proposed to found a great institution of learning in one of the far western cities went to Cambridge to see what was being done at Harvard. He passed a day or two looking at its buildings, libraries, and museums, and inquiring into the courses of study and the work carried on. At the end of that time he turned to those who were showing him about, and said: "Well, gentlemen, what is your whole plant worth?" They looked blank, and the millionaire reiterated: "What is the value of it—how much did it all cost?" The notion that Harvard University, the product of two centuries of time and of the lives and labors of thousands of good men, could be valued in money was strange; but the millionaire was insistent upon an answer, and one official finally said: "I suppose it cost perhaps so and so many millions;" and the plutocrat turned to his wife, who happened to be with him, and said: "Well, I guess we can do better than that," and went away quite confident that it was within his power, by the mere expenditure of money, to at once produce an institution more valuable than Harvard University.

The Harvard representatives at this conversation could not have been more aghast at the millionaire's question than I was when, some months ago, I received from the Public Service Commission of this district notice that they had undertaken the valuation of the property, tangible and intangible, of the street railways of this city, including one of which I happen to be the custodian.

I asked how it was proposed to make the valuation and what was the purpose for which it was to be made. In various forms I repeated these questions for more than a year, without any answer, until one of the commissioners, perhaps inadvertently, said that the purpose of the commission was, in brief, "to secure reliable information as to the value of the physical properties of the company for the purpose of being in possession of the facts necessary or important for its discharge of the duties devolving upon it in connection with issues of securities, passenger rates, etc.," and that I must be aware of it. That statement, if you please, being made with reference to a company of which all the securities had already been issued, and to a railroad and a community where the most widely known and universally accepted fact in respect to street service is that the fare of every passenger is fixed at five cents! This statement did not enlighten me, and for a long time I could not conceive what the commission was driving at. I have, however, now discovered what I suppose the most of you knew long ago—that the notion of a valuation of public service properties originated in the State of Wisconsin, although it was first attempted to be applied in Texas, and that in Wisconsin there is a statute which provides for such valuation, primarily for the purpose of enabling the state to fix rates on the steam railroads which would be more acceptable to the shippers; and in a recent address by Mr. Roemer, a member of the Wisconsin Commission, I find the whole philosophy of a state valuation of public utilities expounded.

The New York Commission for this district has apparently swallowed the Wisconsin doctrine whole, and is undertaking to apply it in a state where the Wisconsin statutes do not run. Mr. Roemer says that the duty of

the valuation imposed upon the commission is the gravest and most important of all its functions, and asserts that "the value of every security of a public service corporation in this state will be determined and perhaps irrevocably fixed by the appraisal made by the commission of such corporation, upon the credit of which such security will be issued. There can be no escape from this conclusion. Fair and reasonable as such appraisal may be, it will signify to the world that, in the future, public utilities in this state will cease to be a subject for speculative investment. It will also indicate that which is most important, to wit, that actual bona fide investments in such concerns, when providently made, will be secure under state supervision, and the adequacy of the security will be maintained by strict enforcement of the law." These views I shall not undertake to discuss. Anybody who holds them is as much beyond the reach of any argument at my command as were those persons who some years ago believed that the relative value of two metals could be fixed by act of Congress. Mr. Roemer, however, goes on, as I understand him, to point out that the method of valuation—as if there were no other—is to have the engineering staff determine the "cost of reproduction." He says: "The engineering staff endeavors to determine as accurately as possible the true 'cost of reproduction' of each item of physical property included in the inventory. All available evidence is carefully weighed, with a definite purpose of arriving at a 'middle-ground' decision on the value of each detail of the property, both as to the 'cost new' and the depreciated or 'present value'. Throughout its work the attitude of the staff is carefully guarded against bias of any kind, with the intention that the service rendered to the commission shall be identical in kind and quality with

that of a technical expert chosen independently by the court to give expert advice or opinions in technical matters."

But Mr. Roemer omits to notice that besides the "cost of reproduction" there are other measures of value, such as market price, original cost, the rental value, all quite as efficient as the cost of reproduction. The salient fact about all but one of these methods of valuation is that, after all, they rest upon the testimony of experts. It is all very well to talk of a valuation by the state. That has an august sound, but when we come to examine the statement it shrinks, so that your state valuation is only the unsifted judgment or guess of one or more individual experts.

Now, with every respect in the world for science of every kind, and for those who are expert in it, I cannot but recall a remark made to me by Professor Huxley, of whom I was asking an expert opinion for our government on a subject which he had studied profoundly, and he said to me: "My dear Whitridge, there are, you know, three kinds of liars—liars, damned liars, and experts."

I remember also, in my early days at the bar, I was directed to prepare a brief, based wholly upon expert opinions, to show that the Brooklyn Bridge would fall down, and in that brief I *proved* that the molecular rearrangement caused by the impact of the heavy traffic on the steel of which the bridge was constructed would result in a disintegration of that metal and the collapse of the bridge. If the theories of molecular action which then prevailed still hold true, that bridge may fall down at any moment, but fortunately I did not fix a date for the catastrophe.

I remember again that when Mr. Edison first announced his project for lighting this city by electricity, a

then electrical expert who was *facile princeps* in his line, said to me in the Western Union office: "Why, if Tom Edison can do what he says he can do, he needs a copper conductor a foot in diameter, which would be heated red-hot."

I am personally quite unable, therefore, to look upon any valuation of anything with the complacency with which Mr. Roemer and his school regard a valuation of public utilities which rests entirely upon the judgment of experts. Assuming, however, that experts are to be depended upon absolutely, and that it is possible for a public body, speaking in the name of the state, to be willing to shelter themselves behind expert opinion, it is quite evident, from the merest enumeration of the methods of valuation, that the conception of value is a very complex one, and it is easy to point out the inadequacy of any particular abstract method of reaching it.

The state has thus far generally undertaken to make a valuation of private property only for the purposes of various kinds of taxation, and it is important to note how it is made. In the first place, take the valuation of land, of real estate generally. In this country and in others where land is freely sold, valuations not only for the purposes of taxation, but for the purposes of sale, are very common; but such valuations are, so far as I know, invariably made with reference to the supposed present or prospective market value. Even here it is a common experience to find that experts with a full knowledge of the sales in the vicinity of a particular piece of property will differ widely in their judgment of its value. I recall an instance where within a year I asked three of our leading real estate firms to appraise a piece of property in the center of this city, which was held at about \$500,000, and those three firms differed from each other in their esti-

mates of the value of that property by as much as \$150,000.

In our own country and in France, Switzerland, and Germany, the governmental valuation of land is nevertheless common for various purposes, because, as I believe, there is a possibility of estimating its market value; but in parts of England and Scotland or wherever land is rigidly held, the case is different. The burning question in the proposed Budget, which has just thrown Great Britain into a general election, is the valuation of land. Five hundred different valuation offices are proposed to be created, and the act provides for twelve or thirteen different kinds of valuation, including "increment value, site value, principal value, gross value, full site value, total value, assessable site value, value for agricultural purposes, original site value, and original total value." In the act some of these expressions are defined, some are not. One of them is defined and never used again in any other part of the bill, and "site value" in one clause has a different meaning from "site value" in two other clauses.

As an illustration of the difficulty of valuing land under conditions different from our own, I recall a conversation which occurred last summer, when an active English politician, as modern as anybody in Wisconsin, who was shooting with me on a Scotch moor, turned around and, looking over the five thousand acres comprised in it, asked: "What is the value of this land per acre?" The members of the party could not agree, and on reference subsequently to the nearest solicitor and land agent, he answered: "Well, it is difficult to fix the value of that land, because there have been only three sales of property in this valley for at least two hundred and fifty years."

In the second place, take the valuation of personal property, for the purpose of transfer, inheritance, and direct personal property taxes, or the collection of duties. I believe that valuation for the purposes of the first three of these taxes is invariably fixed by reference to the market price ascertained from the dealers, or published quotations; and for the purpose of customs duties the valuation is almost invariably fixed by the cost price, although in the case of personal effects where the cost price obviously no longer represents present value, our government makes itself ridiculous at least one million times a year—or would do so if it complied with the law—in the endeavor to make an official valuation of such effects on the dock or in the public stores.

In the third place, take the state valuation of intangibles like franchises and good-will—for if competition in public utilities can be conceived of under the Wisconsin doctrine, good-will must be recognized as an element of value—and it appears plain that the attempt to make such valuations of franchises for the purposes of taxation has resulted in this state—and I know nothing of it elsewhere—in nothing short of a monstrous scandal. We have a State Board of three persons whose sole duty it is to appraise franchises for taxation, which has been at work for ten years. The appraisals by this board of the street railway franchises in this city have been in litigation for nine of these years. The valuations have been reduced by the courts about 50 per cent. The board has gone gallantly on making its appraisals year after year, as if the courts had not spoken, and the courts will doubtless continue to perform their appointed task of correcting those appraisals. The theory on which this board of valuers proceeds, I do not know, because they have not announced it, but I know of one instance in

which the value of the franchise of a railroad was appraised by it as \$40,000. Just after that appraisal was made the railroad, franchise, cars, roadbed, and all appurtenances sold at auction for \$500. The board of appraisers was furnished with an affidavit of the sale at that price, and a copy of the decree confirming it, and they thereupon reduced the value of the franchise, not to nothing, but from \$40,000 to \$20,000. The labors of this particular body of state functionaries, instead of fixing values irrevocably, as Mr. Roemer dreams the state will do, have only opened a vista of litigation, apparently as long before as it is behind.

All the cases I have so far touched are comparatively simple, but when we come to the valuation of a public utility containing so many different elements as a street railway, an electric light, power, or water plant, the problem is vastly complicated, and it is not surprising that the Wisconsin philosophers have frankly "funked" the whole thing and sought shelter for themselves behind the experts, and those gentlemen have in turn taken the line of least resistance, and say the value of a public utility is what it would cost to reproduce it. Is it? Is it?

If all experts agreed there would be less difficulty in accepting that measure of value, but I see no reason to suppose that experts in the employ of the state are any more nearly infallible than the experts in the employ of the great contractors; and the merest tyro in affairs knows that if bids were asked for the construction of a large public utility today, the best contractors you could find would vary from 10 to 50 per cent in their bids; and in this city I doubt if you could get any bid except for a percentage on cost. Nor is this remarkable in respect to railways, for the actual cost of a mile of underground electric trolley has varied from \$64,000 in Washington to about \$1,000,000 in New York.

Let us suppose, however, that the present cost of reproduction can be got at ; it would obviously be unjust, either to the investors in the enterprise or to the public, unless it could be shown that the march of science had been stayed, and the prices of materials and the cost of labor had been as "irrevocably" fixed as they are in Mr. Roemer's vision of the world that is to be, and had not, therefore, changed since the date of production. The cost of reproduction, moreover, takes no cognizance of obsolete portions of a plant which contributed to its earning capacity and therefore, as I contend, to its present value. The Third Avenue Railway, for instance, was a horse railroad, then it was a cable railroad, now it is an electric railroad, and its security-holders paid their money to construct those roads. The first two served their purpose and have ceased to exist. The Western Union has, I am informed, several millions of bonds outstanding which were issued for the money wherewith to lay cables, some of which have been lost in the primeval ooze at the bottom of the sea.

Now, if the cost of reproduction is the measure of the value of a property, and the aggregate of its securities is to be contained within that valuation, I suppose it must be a corollary of that proposition that the five millions of bonds issued by the Third Avenue for its cable plant and the other millions of Western Union bonds issued for its extinct cable should be surrendered by their owners, and perhaps filed with the statisticians of the Public Service Commission.

Finally, if we suppose that all the proposed valuations have been satisfactorily made, we must also suppose that civilized society has crystallized, as Mr. Roemer with his irrevocability would have us believe, or Mr. Bellamy in his romance long ago imagined. If we

do not so suppose, it must be conceded that the expiration of valuable patents, a decrease in population, bad times, increased prices of commodities, or competition which might lead to the building of a new public utility alongside of an old one, may entirely alter the position of a public service corporation and change every kind of value it may have except that fixed by the state.

Above all things, science must be chained, otherwise after the public service commissions have got everything comfortably and "perhaps irrevocably" valued, somebody like Mr. Brennan with his monorail and gyroscope car—the most wonderful thing I have ever seen—may come along and, so far as railways are concerned, upset the whole official edifice by revolutionizing the business.

Notwithstanding all these considerations, it is urged as a general principle that it is essential to have an authoritative valuation of public service corporations, first, to determine the reasonableness of the price paid by the public for services rendered, that is, to fix rates; second, to enable the laws for the control of the issue of securities to be equitably administered; third, to determine the amount to be paid over to the public by way of taxes, which cannot be reached without an analysis of the value of the industry considered as a commercial concern. Professor Adams, who states these propositions fairly and moderately, unblushingly dodges the details and the methods of valuation, but rests his case upon the *necessity* for an authoritative valuation for the purposes specified. This view of the matter rather suggests the reply of Lord Chesterfield to the quack who was explaining by way of apology that "he must live", and Lord Chesterfield answered cheerfully: "I do not recognize the necessity."

Certainly the necessity for valuation for any of those

purposes is as yet far from general recognition. Only two or three states have authorized it, and I had supposed the notion that valuation of a common carrier, however it might be measured, or the notion that capitalization based upon such valuation was a factor in fixing rates, was now an expiring delusion. It is the demand for a commodity and the price of it which mainly determine the freight rate for it, and thus, as a distinguished economist has said, the market price of wheat in Liverpool has more to do with fixing the freight on wheat between St. Paul and New York than the capitalization of the railroads between those points. It is quite possible that in a virgin land rates might be fixed with a view in part to a return on the cost of a newly constructed railroad, or to paying interest on the securities which represented that cost; but in this country there is no longer any such case, and a moment's reflection is sufficient to show that if two points are connected by two railroads, one of which cost or is capitalized at \$10,000,000 and the other at \$25,000,000, the rates must be the same on both railroads between those two points.

As respects the second necessity for a valuation mentioned by Professor Adams, I agree that in the case of a new enterprise the laws in respect to the issue of securities cannot be administered without regard to the value of the property, but the measure of value in that case is the original cost—there can be no other. To undertake, however, to apply that standard to a public utility with a long history and a demonstrated earning capacity is absurd and impracticable. The measure of value in such case is the income or yield, having regard to its permanence and possible increase, and it is the proved or probable income of a property also which, in the long run, establishes its market price, and, for that mater,

the market value of everything else in the world, except merchandise and works of art, as to which the demand, together with considerations of rarity, beauty, and taste or sentiment, intervenes.

If the value of a property measured by the cost of reproduction is less than the value of a property measured by its fruit or its income, any attempt to limit the securities to the amount shown by the first method is tantamount to confiscation, which our constitution and laws do not yet allow. Furthermore, any proposal to limit the amount of the income of a property by cutting down the amount of its securities on which the income is to be paid—and this, I am informed, is the theory of the arch and senatorial Wisconsin philosopher—appears to me to be undiluted nonsense.

As to the valuation of a public service industry for purposes of taxation, I understand that Professor Adams's "analysis of the value of the industry considered as a commercial concern" means exactly what I mean by saying that the value of an industry is measured by its product or income, and I only wish the laws in respect to taxation recognized that principle. They do not. These are the three purposes for which Professor Adams says we must, as a matter of general principle, have a system of valuation; and the Interstate Commerce Commission solemnly asked for an appropriation of \$3,000,000 with which to "value" all the interstate railroads in the United States.

There is something fascinating about general principles, and I can understand how a man may persuade himself that, as a matter of principle, there *must* be a valuation to save the courts and officials trouble in doing what he thinks they ought to do. It certainly would be a convenience to have a bureau of values, like the standard

measures in the mint, to which you could go and find out what everything was "perhaps irrevocably" worth. But the individual must wither indeed before the state can be sufficiently reorganized to offer such conveniences. I can only say here: "Beware of general principles." They can only be attained through patient and laborious years. They cannot be reached merely by the expression of vague desires. They are not to be promulgated by every weakling who wants them to lean upon. And remember that one of the things which most clearly marks the transition from youth to maturity is the unwillingness to formulate offhand "general principles."

The whole problem of the possibility and desirability of making a valuation of a public service corporation resolves itself into questions of the method of the valuation and the purpose for which it is made. I regret that it should be gravely discussed merely as necessary for the accomplishment of other purposes, because that appears to me to be a result of the un-American and, I hope, temporary tendency which now prevails, to run to the government with every project and every conceivable grievance, like my landlady in Berlin thirty years ago, who cried out: "The price of meat is frightful, and the police ought to do something about it."

The people of this country have, I think wisely, made up their minds, in consequence of great corporate abuses, that public service corporations should be subject to regulation and, in some respects, control by the state; but when I see the laws showered from the legislatures, and the indiscriminate volleys of rules and general principles from public officials, usually fired through an intellectual fog, I cannot help thinking that the heads of the commissioners, state and interstate, are addled by power, or the lust for it, as much as the head of the millionaire who

wanted a price on Harvard University was addled by his money.

These officials have great powers and most useful functions. They are trying to exercise them with zeal and honesty, and so far, I believe, desire nothing but the public good. As I consider their labors, however, I remember that the great Mommsen once said to me: "Your people play pranks in politics and would excuse them by their youth"; and really, in many of their endeavors, particularly in this matter of valuation, with its irreverence for facts, they seem to be singing the song of the Banderlog who dreamed of

"Something noble, grand, and good
Won by simply wishing we could."